



The
THE FAMILY LAW SECTION
respectfully submits the following position on:

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HB 5701
SB 1045

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan. To date, the State Bar of Michigan does not have a position on this matter.

The total membership of the Family Law Section is 2,585.

The position was adopted after review and vote by members elected to the Family Law Section's Council. The number of members in the decision-making body is 21. The number who voted in favor to this position was 10. The number who voted opposed to this position was 5.



Report on Public Policy Position

Name of Section:

Family Law Section

Contact Person:

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Bill Number:

HB 5701 (Moolenaar) Family law; child custody; child parenting plan; create. Amends title & secs. 1, 2, 4 & 11 of 1970 PA 91 (MCL 722.21 et seq.) & adds secs. 5a, 5b, 5c, 5d, 5e & 5f. TIE BAR WITH: HB 5698'06. Same original content as SB 1045.

SB 1045 (Kuipers) Family law; child custody; child parenting plan; create. Amends title & secs. 1, 2, 4 & 11 of 1970 PA 91 (MCL 722.21 et seq.) & adds secs. 5a, 5b, 5c, 5d, 5e & 5f. Same original content as HB 5701.

Date position was adopted:

March 4, 2006

Process used to take the ideological position:

Vote of Council members present at Council

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

10-5

FOR SECTIONS ONLY:

This subject matter of this position is within the jurisdiction of the section.

The position was adopted in accordance with the Section's bylaws.

The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

HB 5701 (SB 1045) would amend the custody act to require each divorcing parent to submit to the court a parenting plan proposal on a State Court Administrative Office form. The bill requires the parties to attempt mediation (except in cases involving domestic violence) and requires the court to provide alternatives to litigation, such as counseling, mediation or arbitration. The bill allows the court to financially sanction a party who frustrates the use of such ADR without good cause.

The Council felt that it was good to encourage parties to mediate their custody disputes, but was concerned that this bill put counseling, mediation and arbitration on an equal footing, and would allow the court to sanction a party who objected to any of those processes. The bill also mandated specific court procedures, some of which made little sense. The Council was only able to support the creation of a parenting plan form by the State Court Administrative Office. The purpose of the form would be to help the parties make sure that they had considered all of the appropriate issues in custody and parenting time, without requiring a specific proposal on every issue, particularly those that were not seen to be at issue. The Council supported the creation of such a parenting plan form, but opposed the remainder of the bill.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

[http://www.legislature.mi.gov/\(0rngndv5tvj3aw45nhbiuh45\)/mileg.aspx?page=BillStatus&objectname=2006-HB-5701](http://www.legislature.mi.gov/(0rngndv5tvj3aw45nhbiuh45)/mileg.aspx?page=BillStatus&objectname=2006-HB-5701)

[http://www.legislature.mi.gov/\(vjlll5rkoxhm2j45baojnuvy\)/mileg.aspx?page=BillStatus&objectname=2006-SB-1045](http://www.legislature.mi.gov/(vjlll5rkoxhm2j45baojnuvy)/mileg.aspx?page=BillStatus&objectname=2006-SB-1045)